

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LAUNDRY, DRY CLEANING WORKERS  
AND ALLIED INDUSTRIES HEALTH  
FUND, UNITE HERE! and LAUNDRY,  
DRY CLEANING WORKERS AND  
ALLIED INDUSTRIES RETIREMENT  
FUND, UNITE HERE,

Petitioners,

-v.-

LINENS OF EUROPE, INC., LINENS OF  
EUROPE NEW YORK, INC. and S DURAN  
L, as a single employer,

Respondent.

07 Civ. 6970(LTS)(RLE)

**SUPPLEMENTAL  
DECLARATION OF  
DAVID C. SAPP IN  
SUPPORT OF ENTRY OF  
DEFAULT JUDGMENT**

**DAVID C. SAPP**, in lieu of an affidavit, as permitted by 28 U.S.C. § 1746 and Local Civil Rule 1.10 of the United States District Court for the Southern District of New York, declares as follows:

1. I am a member of the bar of this Court and the attorney for petitioners Laundry, Dry Cleaning Workers and Allied Industries Health Fund, UNITE HERE! and Laundry, Dry Cleaning Workers and Allied Industries Retirement Fund, UNITE HERE!,

in this proceeding. I am fully familiar with all of the facts and circumstances herein

2. I submit this declaration as required by the Court's August 31, 2007 Order and in support of the Fund's application for entry of a default judgment.

3. Section 9 of the Federal Arbitration Act ("Arbitration Act"), 9 U.S.C. § 9, provides that a proceeding to confirm an arbitration award must be brought within one year after the award is made. The arbitration award underlying the instant proceeding

was made and issued by Arbitrator Philip Ross on June 29, 2007. The petition to confirm the arbitration award (“the petition”) was filed on August 3, 2007. Because the petition was filed within one year of the date of the award, the petition was timely filed with the Court under 9 U.S.C. § 9.

4. The arbitration award that is the subject of the instant proceeding has not been vacated or modified and no application for such relief was ever made by respondent.

5. Section 13 of the Arbitration Act, 9 U.S.C. § 13, provides, in relevant part,

The party moving for an order confirming, modifying, or correcting an award shall, at the time such order is filed with the clerk for the entry of judgment thereon, also file the following papers with the clerk:

- (a) The agreement; the selection or appointment, if any, of an additional arbitrator or umpire; and each written extension of the time, if any, within which to make the award.
- (b) The award.
- (c) Each notice, affidavit, or other paper used upon an application to confirm, modify, or correct the award, and a copy of each order of the court upon such an application.

6. As required by 9 U.S.C. § 13(a), petitioners submitted a copy of the collective bargaining agreement as Exhibit “C” to the Affidavit in Support of Entry of Default Judgment signed by Mark Schwartz, Esq. on November 19, 2007, and filed with the Court on November 26, 2007. No additional arbitrators were selected or appointed by the parties to the collective bargaining agreement and there were no extensions of time requested or granted.

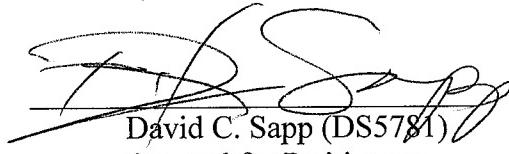
7. As required by 9 U.S.C. § 13(b), petitioners submitted a copy of the underlying arbitration award as Exhibit “A” to the petition.

8. As required by 9 U.S.C. § 13(c), petitioners submitted an affidavit in the form

of the petition and in support of the application for entry of default judgment and there have been no applications to modify or correct the award.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed at New York, New York on February 29, 2008.



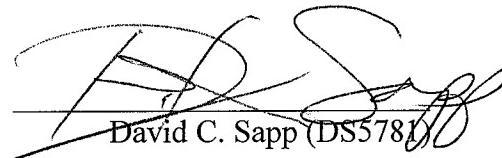
David C. Sapp (DS5781)  
Counsel for Petitioners

UNITE HERE FUNDS ADMINISTRATORS, INC.  
730 Broadway – 9<sup>th</sup> Floor  
New York, New York 10003  
(212) 539-5576

**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true copy of the foregoing to be mailed, via first class mail, postage prepaid to respondent Linens of Europe, Inc., Linens of Europe New York, Inc. and S Duran L, a single employer, at its last known business address of 223 East 141<sup>st</sup> Street, New York, New York 10451

Dated: February 29, 2008  
New York, New York



David C. Sapp (DS5781)